

SENATE BILL 1641

By Norris

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 11, Part 1; Title 68, Chapter 221, Part 7; Title 69, Chapter 3, Part 1 and Title 69, Chapter 10, Part 1, relative to boards and commissions attached to the department of environment and conservation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-11-102, is amended by deleting the first sentence of subsection (a) and by substituting instead the following:

There is hereby created the Tennessee historical commission, which shall be composed of the governor or the governor's designee, the state historian, the state archaeologist, the commissioner of environment and conservation or the commissioner's designee, and the state librarian and archivist, all of whom shall be voting ex officio members; and twenty-four (24) members appointed by the governor.

SECTION 2. Tennessee Code Annotated, Section 68-221-714, is amended by deleting the section in its entirety and by substituting instead the following:

68-221-714

(a) The hearing on any petition for review of an order issued under § 68-221-712 or an assessment under § 68-221-713 shall be conducted as a contested case hearing and shall be heard before an administrative judge sitting alone pursuant to §§ 4-5-301(a)(2) and 4-5-314(b), unless settled by the parties.

(b) The administrative judge to whom the case has been assigned shall convene the parties for a scheduling conference within thirty (30) days of the date the petition is filed. The scheduling order for the contested case hearing issued by the administrative judge shall establish a schedule that results in a

hearing being completed within one hundred eighty (180) days of the scheduling conference, unless the parties agree to a longer time or the administrative judge allows otherwise for good cause shown.

(c) Within sixty (60) days of the completion of the record of the hearing, the administrative judge shall issue an initial order. The administrative judge's initial order, together with any earlier orders issued by the administrative judge, shall become final unless appealed to the board by the commissioner or other party within thirty (30) days of entry of the initial order, or, unless the board passes a motion to review the initial order pursuant to § 4-5-315, within the longer of thirty (30) days or seven (7) days after the first board meeting to occur after entry of the initial order.

(d) Upon appeal to the board by a party, or upon passage of a motion of the board to review the administrative judge's initial order, the board shall afford each party an opportunity to present briefs, shall review the record and shall allow each party an opportunity to present oral argument. If appealed to the board, the board's review of the administrative judge's initial order shall be limited to the record but shall be de novo with no presumption of correctness. In such appeals, the board shall thereafter render a final order, in accordance with the provisions of § 4-5-314, affirming, modifying, remanding, or vacating the administrative judge's order.

(e) A final order rendered pursuant to this section is effective upon its entry, except as provided in § 4-5-320(b), unless a later effective date shall be stated therein. A petition to stay the effective date of a final order may be filed under the provisions of § 4-5-316. A petition for reconsideration of a final order may be filed pursuant to § 4-5-317. Judicial review of a final order may be sought by filing a petition for review in accordance with § 4-5-322.

(f) An order of an administrative judge that becomes final in the absence of an appeal or review by the board shall be deemed to be a decision of the

board in that case for purposes of determining the standard of review by a court; however, in other matters before the board, it may be considered but shall not be binding on the board.

SECTION 3. Tennessee Code Annotated, Section 69-3-104(a), is amended by adding the following language as a new, appropriately designated subdivision:

() (A) Notwithstanding the provisions of subdivision (a)(8) of this section, the terms of the appointive members of the board serving on July 1, 2014, shall terminate as follows:

(i) The terms of the members appointed under subdivisions (a)(4)(A)(i) and (ii) shall terminate on September 30, 2016;

(ii) The terms of the members appointed under subdivisions (a)(4)(A)(iii) and (iv) shall terminate on September 30, 2017;

(iii) The terms of the members appointed under subdivisions (a)(4)(A)(v) and (vi) shall terminate on September 30, 2018; and

(iv) The terms of the members appointed under subdivisions (a)(4)(A)(vii), (viii) and (ix) shall terminate on September 30, 2019.

(B) The terms of all members appointed for terms beginning after September 30, 2016, shall be for four (4) years.

SECTION 4. Tennessee Code Annotated, Section 69-3-110(a), is amended by deleting the language “§ 69-3-105(i), § 69-3-109, or § 69-3-118” in the first sentence of the subsection and substituting instead “§ 69-3-105(i), § 69-3-109, § 69-3-115, § 69-3-116, or § 69-3-118”.

SECTION 5. Tennessee Code Annotated, Section 69-10-107, is amended by deleting the language, “director of water supply” and “director of water management” in subsections (a) and (c) respectively and by substituting instead “director of water resources.”

SECTION 6. This act shall take effect July 1, 2014, the public welfare requiring it.